

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Alejandro Licona Jimenez,)	Case No. 6:18-2793-TLW
)	
Petitioner,)	
)	
vs.)	Order
)	
Warden of Ridgeland Correctional)	
Institution,)	
)	
Respondent.)	
)	

Petitioner Alejandro L. Jimenez, an inmate at Ridgeland Correctional Institution, filed this *pro se* habeas petition pursuant to 28 U.S.C. § 2254 on October 15, 2018. ECF No. 1. Respondent filed a motion for summary judgment on May 18, 2020. ECF No. 40. This matter is before the Court for review of the Report and Recommendation (Report) filed by United States Magistrate Judge Kevin F. McDonald, to whom this case was assigned pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Civ. Rule 73.02(B)(2)(c), (D.S.C.). ECF No. 47. In the Report, the Magistrate Judge recommends that this Court grant Respondent's motion for summary judgment and deny the Petition. *Id.* Petitioner filed objections to the Report on October 13, 2020, ECF No. 49, to which Respondent replied on October 27, 2020, ECF No. 51. This matter is now ripe for disposition.

The Court is charged with conducting a *de novo* review of any portion of the Magistrate Judge's Report and Recommendation to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the

recommendations contained in that report. 28 U.S.C. § 636. In conducting its review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the report and recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992) (citations omitted).

The Court has carefully reviewed the Report and Petitioner's objections thereto in accordance with this standard, and it concludes that the Magistrate Judge accurately summarizes the case and the applicable law in detail and sets forth a detailed analysis of the relevant issues. For the reasons stated in the Report, this Court accepts the conclusion of the Magistrate Judge that Petitioner has failed to establish that his counsel was ineffective. After careful consideration, **IT IS ORDERED** that the Report, ECF No. 47, is **ACCEPTED**, and the Petitioner's Objections, ECF No. 49, are **OVERRULED**. Respondent's motion for summary judgment, ECF No. 40, is **GRANTED** and the Petition, ECF No. 1, is hereby **DISMISSED**.

The Court has reviewed this petition in accordance with Rule 11 of the Rules

Governing Section 2254 Proceedings. The Court concludes that it is not appropriate to issue a certificate of appealability as to the issues raised herein. Petitioner is advised that he may seek a certificate from the Fourth Circuit Court of Appeals under Rule 22 of the Federal Rules of Appellate Procedure.

IT IS SO ORDERED.

s/ Terry L. Wooten
Terry L. Wooten
Chief United States District Judge

December 4, 2020
Columbia, South Carolina